

In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 19089 of 2006

Date of Decision: 04.12.2006

Constable Virender Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Dr. Surya Parkash, Advocate,

for the petitioner.

JUDGMENT

M.M. KUMAR, J.

The petitioner is aggrieved by order dated 23.8.2006 (P-1) discharging him from service as a Constable by exercising jurisdiction under Rule 12.21 of the Punjab Police Rules, 1934 (for brevity, 'the Rules'). It is appropriate to mention that the petitioner was appointed as Constable on 23.11.2004 and he could have been discharged under Rule 12.21 of the Rules within three years of his enrolment. On the ground that the petitioner is not likely to become an efficient police officer, the power of discharge has been exercised.

There is a Full Bench judgment of this Court in the case of **Sher Singh v. State of Haryana, 1994(2) SLR 100**, holding that power of discharge exercised under Rule 12.21 cannot be questioned unless the same has been exercised with mala fide intention. The view of the Full Bench go to the extent that a Constable can be discharged from service under Rule 12.21 at any time within three years of his enrolment despite the fact that there is a specific allegation which may even amount to misconduct against him. The provisions of Rule 16.24 of the Rules and Article 311 would be attracted only in cases when the punishing authority decide to punish the Constable, which is not the case in the instant case.

After hearing learned counsel for the petitioner, we are of the considered view that the impugned order dated 23.8.2006 (P-1) is not a stigmatic order disclosing any lapse on the part of the petitioner. Therefore, the argument that the order is actuated by misconduct is not sustainable. The view of the Full Bench squarely applies to the instant case and the petition is liable to be dismissed.

For the reasons aforementioned, this petition fails and the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)

December 4, 2006
JUDGE

Pkapoor